



REGAN ON INHERENT VALUE

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Arguments about ethical considerations which might apply to our treatment of animals have long been plagued by an inability to agree about the scope of such arguments. It is easy to generate agreement that pain is an evil, a harm, and that it is hence wrong to cause pain for no reason. It is much harder to reach a consensus on the question of whether loss of life or interference with an animal's life is an evil or harm, and if so, why. The question can be given a positive characterization which may be more productive: does a being's life have some value, and, if so, what is the nature of that value? In this paper, I shall evaluate one attempt by Tom Regan to answer that question.[1]

Regan's position is that an adequate moral theory must recognize that some forms of life, or more precisely, beings with a certain kind of life, are inherently valuable. The beings in question are moral agents and moral patients.[2] Both moral agents and patients are beings who

have beliefs and desires, who perceive, remember, and can act intentionally, who have a sense of the future, including their own future (i.e., are self-aware or self-conscious), who have an emotional life, who have a psychophysical identity over time, who have a certain kind of autonomy (namely, preference-autonomy), and who have an experiential welfare.
(153)

Dogs and normal human infants are examples of moral patients. Moral agents have additional capacities in virtue of which they can be held morally responsible.

Regan introduces the term "inherent value" to identify a value which is defined as distinct from and incommensurable with the intrinsic value of that being's experiences. Moreover, he argues that all moral agents and patients have equal inherent value. I shall argue that Regan is correct in demanding that a moral theory must recognize the inherent value of life but that the second part of his argument fails. However, by attempting to diagnose the cause of some fundamental problems with Regan's argument, I think the general outlines of an alternative approach become evident. In the final section of this paper, I indicate one form such an approach might take.

A. The Concept of Inherent Value

The heart of the problem rests with the concept of inherent value. What exactly is meant by this term, and what does it entail? The traditional concept of inherent value is that something has inherent value if experiencing that thing is good in itself. Thus, a piece of music may have inherent value if the experience of listening to it is good in itself.[3]

Regan, however, wants to apply the terms "inherent value" to beings, or lives, not experiences. If one wanted to do this while preserving some link with the traditional concept, one might suggest that a subject of experiences, a conscious being, has inherent value in that its experiences have intrinsic value. But this would not be the concept of inherent value that Regan wants, because it would make inherent value dependent on (although not necessarily reducible to) intrinsic value. More important, this sense of inherent value admits of degrees: just as one piece of music will have more inherent value than another if it occasions (or could occasion) more intrinsically valuable experiences, so too could one being have more inherent value than another if it were capable of having more intrinsically valuable experiences.[4]

One should also note a second question about the nature of inherent value: the question of whether this whole debate is an issue of moral or non-moral value. Traditionally, the term "inherent value" has been used to refer to things with a certain kind of non-moral value. On the other hand, Regan's argument seems more appropriate to moral values. Thus, Regan treats the claim "life has some inherent value" as equivalent to the claim "it is prima facie wrong to take a life (and perhaps to interfere with it). This indicates that the value which Regan assigns to the lives of moral agents and patients is a moral value. If one claims that the inherent value of life is a non-moral good, then a further argument will be required for the claim that this value plays a role in our moral judgments.

Regan's definition of inherent value is primarily a negative one; we are told that beings have an inherent value that is

conceptually distinct from the intrinsic value that attaches to the experiences they have (e.g., their pleasure of preference satisfactions), as not being reducible to values of this latter kind, and as being incommensurable with these values. (235)

Regan contrasts this with the view that a being has value only as a receptacle for valuable experiences;[5] his account of inherent value affirms, so to speak, that the receptacle itself has value independently of its content (236). However, on this view, "inherent value" is also a purely formal concept, curiously devoid of substance. Regan justifies appealing to this "bare" concept as part of a postulate which is necessary to the development of an adequate moral theory (239-40, 247, 264); he is therefore justified in saying no more than what the postulate requires. The postulate in question is the claim that all moral agents and all moral patients have equal inherent value; I shall henceforth refer to this as "the postulate of equal value" or "PEV." As suggested above, this formal character of inherent value is consistent with the introduction of inherent value as a moral good.

B. Justifying the Postulate

Of course, the PEV stands in need of justification. Part of the justification will be negative, consisting of an argument showing that a moral theory which does not recognize inherent value is unacceptable. There is also a positive side to this position, namely that all moral agents and patients have equal inherent value and that this value amounts to no more than a formal requirement on any moral theory. Thus, the PEV is defended as a necessary theoretical postulate, not as something that follows intuitively from a claim that all moral agents and patients have some property "P" which engenders their inherent value.[6]

The defense of this postulate proceeds in three stages. The first is arguing that all moral agents have inherent value. The second is defending that inherent value applies equally to all that have it; it does not vary in degree. The final argument is designed to show that we cannot consistently recognize that moral agents have inherent value while denying equal value to all moral

patients. The first and third raise interesting issues, but it is in the second stage, I shall argue, that the most serious problems arise. If it is false that inherent value cannot admit of degrees, then even if moral patients also have inherent value, it does not follow that their value is equal to that of moral agents.

In the first stage of the argument, Regan argues that we need to ascribe inherent value to moral agents because a moral theory which fails to do so will have consequences which are morally repugnant. He specifically mentions the example of an act-utilitarian calculus on which it might be morally correct to kill an innocent person because doing so brings about a greater balance of good over evil (238). The key points of his argument are:

(1) a moral theory should be structured so that it does not sanction intuitively incorrect judgments of the sort just mentioned.

(2) the most promising way of accomplishing that goal is to introduce another sort of value--for which we can use the label "inherent value"--which must be considered in addition to the intrinsic values which ground the calculations in basic forms of utilitarianism.

The first claim is a plausible methodological principle. However, if it is a methodological principle, it does not automatically license the introduction of inherent value as simply stipulated. One still needs to justify the way in which one proposes to block the incorrect judgments. One could avoid the difficulties encountered by utilitarianism, for example, if one could justify the claim that all morally innocent agents have inherent value. One can, on this basis, justify a desire to locate and explicate some concept of inherent value, but neither claim provides specific guidelines about the nature of this inherent value, its scope and its foundation. The concept of inherent value need not remain vacuous, but it will be up to the rest of the theory to give it content. It certainly does not follow from these two claims that all moral agents have equal inherent value, or indeed that moral agents have inherent value at all. Thus, in order to locate inherent value properly in the structure of our moral

theory, more argument is needed; that leads to the next two stages of the argument.

The second stage of Regan's argument, in which he defends the claim that we should view all moral agents as having equal inherent value, is remarkably brief. It is also the most crucial and controversial stage in the defense of Regan's position. The basic premise is that any attempt to assign degrees of inherent value

is to pave the way for a perfectionist theory of justice. Such an interpretation of justice is unacceptable. Equally unacceptable, therefore, is any view of the inherent value of moral agents that could serve as the basis for such a theory. (237)

Earlier, Regan argued for the unacceptability of perfectionist theories of justice because he thinks that they provide "the foundation for the most objectionable forms of social, political, and legal discrimination--chattel slavery, rigid caste systems, and gross disparities in the quality of life available to citizens in the same state, for example" (234). Aristotle and Nietzsche are mentioned as two proponents of this sort of objectionable perfectionism.

The notion of perfectionism is a bit hazy here.[7] Regan begins by defining it as a theory which ranks individuals on the basis

of the extent to which they possess certain specific virtues, "including intellectual and artistic talents" (234). Later on the same page, he suggests that one essential feature of perfectionist theories is that they appeal to natural talents, which the possessor has not in any way earned or deserved. However, the argument for equality presupposes an even broader notion in which a theory is perfectionist (or has perfectionist tendencies) if it draws a distinction based on any quality, natural or developed, which might be had in various degrees by moral agents. Otherwise, a rejection of perfectionism would not, by itself, justify the adoption of the PEV. Regan does not explicitly define perfectionism this broadly, but it is the only formulation which will support his conclusion.

Clearly, Regan's objections to Aristotle and Nietzsche are widely shared, but one must identify the basis for those objections.

Their lists for favored virtues are too narrow, and more important, some of their premises about human nature are simply false. But surely the only conclusions to draw from this are (a) intuitively, there are many more things that seem to be virtues than those mentioned by Aristotle or Nietzsche, and (b) we need to be careful about the factual claims with which we draw specific conclusions from our moral principles.

Objections to perfectionism more broadly construed are less easy to sustain. To charge that any theory which is based on qualities that are the result of a "natural lottery" is unjust simply begs the question. Regan points out that "Those who are born with intellectual or artistic gifts have not themselves done anything to deserve preferred treatment, any more than those born lacking those gifts have done anything to deserve being denied those benefits essential to their welfare" (234). True, but it does not follow from the fact that someone has not done anything to deserve x that she does not deserve x. In this context, "S deserves x" cannot simply mean "S has earned x by doing y." Regan himself is committed to the claim that I have not done anything to deserve respect as an individual with inherent value, but I deserve that respect nonetheless. An earthworm has not done anything (other than having the misfortune to be born an earthworm) to deserve exclusion from the realm of moral patients, but it is still justifiably so excluded.

"S deserves x" must therefore be interpreted more broadly as "S has a prima facie right to x," or perhaps "it would be prima facie wrong to withhold x from S." However, on this reading, it would simply be question-begging to reject a competing theory which claimed "S deserves x" (i.e., claimed that it is prima facie wrong to withhold x from S) if that rejection is grounded solely on the claim that S has not done anything to deserve x. One must show why the theory is wrong in its assignment of just deserts. This Regan has not done. The suspicion that he cannot do it is reinforced by the realization that if the argument is construed in this way, the conclusion would seem to entail that no moral obligation, duty, or right could be based on any non-moral feature of the subject that is not fully under the subject's control.

Thus, Regan's objections to perfectionist theories do not sustain his rejection of all attempts to identify grounds on which individuals might be said to have varying degrees of inherent value. Regan seems to be of two minds on this point. On the one hand, he draws only tenuous connections: one account of varying inherent value might be a perfectionist account, and this might "pave the way" in some manner for a perfectionist theory of justice. On the other hand, he seems to take this argument to establish quite conclusively that moral agents are equal in inherent value. Only the first is warranted, but it is at best a caveat, not a justification of the PEV.

The third stage of Regan's defense of the postulate is an argument to the conclusion that moral patients have inherent value in exactly the same way that moral agents do; the argument is basically an appeal to consistency. If, however, Regan has not successfully ruled out the possibility that the concept of inherent value admits of degrees, it is certainly possible that moral patients could have inherent value in exactly the same way that moral agents do and still not have inherent value to the same degree. That is, our grounds for recognizing or assigning inherent value could be the same in each case but could lead to different valuations for different sorts of beings. If inherent value is grounded in something which moral agents have to a greater degree than patients, moral agents will have greater inherent value. If the qualities on which inherent value is founded vary independently of those qualities which distinguish agents from patients (e.g., the ability to govern one's behavior on the basis of an appreciation of moral principles--cf. 152), then so too will inherent value.

C. Consequences of an Appeal to Inherent Value

So far I have claimed that Regan's arguments do not rule out the possibility of an alternative concept of inherent value. Our examination of his arguments reveals that he cannot deduce the PEV from a previously characterized conception of inherent value. Rather, the introduction of a notion of inherent value as a requirement placed on an adequate moral theory and its incorporation in the PEV are both guided by meta-ethical intu-

itions about necessary constraints on any adequate moral theory. Thus, Regan's concept of inherent value must remain formal and devoid of further content; its meaning is exhausted by the strictures it places on our judgments of what is permissible and obligatory. According to this view the best justification for the PEV will therefore be that it is an integral part of a good (the best?) moral theory.

A natural objection to this way of thinking about inherent value is that it conflates necessary and sufficient conditions. That is, even if it is necessary for an adequate theory to recognize inherent value, that does not mean that it is sufficient simply to postulate such a value without further explication. A stronger version might point out that the need for a concept of inherent value does not automatically license the assertion that one is entitled to such a concept and that no additional justification or explanation is needed.

This, of course, leaves open the possibility that an alternative account of inherent value will form part of a better theory. In this section, I shall argue that there is good reason to expect this to be the case. To do so, I shall examine the sort of moral theory that results from Regan's starting point.

This approach yields a surprising discovery. Although the PEV sounds radical, the assessments it supports in specific cases do not sustain this appearance. Its limitations are evident in examples discussed by Regan himself and by the more general theses which Regan tries to deduce from it. The example which Regan discusses in this context is one in which four humans and a dog are in a lifeboat which can sustain only four of the five beings; one "must go." Despite his commitment to the PEV, Regan concludes that the dog should be killed (324-5).

Although Regan does not justify this conclusion in these terms, it follows from what he says that we are justified in considering each being in terms of inherent value together with the value of its experiences, and the value which accrues on the basis of relations to others. There is a sense in which an individual's total value is the sum of these various sorts of values. Regan

grants that death is a greater harm for humans because it forecloses more or greater opportunities for satisfaction; we can rephrase this by noting that the potential value of each human's experiences is greater than that of the dog's. Thus, the total value of a human is greater than that of the dog. Moreover, since by hypothesis the inherent value of any moral agent or patient is equal to that of any other, the values which enter the sum via inherent value will always cancel each other out. This entails that inherent value will never change the balance of values in the sorts of cases just described; it simply makes no contribution.

The lifeboat case is admittedly an unusual circumstance, and it might be argued that inherent value does play an important role in more normal cases. This certainly seems plausible in light of Regan's definition of inherent value as incommensurable with intrinsic or instrumental value. Regan's claim then would be that no amount of intrinsic or instrumental value can outweigh the inherent value that each individual has; therefore, one cannot justify ignoring that inherent value by an appeal to a gain in intrinsic or instrumental value.

This "incommensurability thesis" carries less weight than it might at first appear. Its consequences are curtailed because if it is taken as a purely formal principle--a matter of definition--it cuts both ways. If the two sorts of values are simply not to be compared, then it is equally true that we cannot justify ignoring a potential gain in intrinsic or instrumental value simply on the basis of an appeal to inherent value. Such a principle leaves us in a position that looks uncomfortably like our pretheoretical one: we know more or less how to adjudicate between claims of the same sort but have no rational principle to apply to cases in which values of radically different sorts come into conflict. When a loss of inherent value is accompanied by a gain of intrinsic or instrumental value or vice versa, the incommensurability thesis simply provides no guidance.

If we are to justify the claim that no amount of intrinsic or instrumental value can justify an infringement of inherent value, we need the thesis that an individual's inherent value is so much greater relative to intrinsic or instrumental value that no amount of

the latter pair can outweigh it. This is hardly consistent with the incommensurability thesis, depending, as it does, on precisely the ability to compare the two. So, if inherent value and other sorts of values really are incommensurable, then the ascription of inherent value to individuals does not alter our attempts to reach a morally justifiable resolution of conflicting considerations in difficult situations. If the claim is instead that inherent value is simply never outweighed by intrinsic or instrumental value, we need an argument, not a stipulation by definition. In order to provide such an argument, we will need a more developed concept of inherent value; the undefined and ungrounded concept Regan supplies provides no starting point. As noted before, the emptiness of inherent value is due to its formal nature; it is merely the stipulation that the value of a life cannot be compared to or outweighed by other sorts of values.

Regan realizes that the notion of inherent values taken by itself does not entail anything about morality. Thus, he adds to the thesis that all moral patients and agents have equal inherent value the claim which he labels "the respect principle." He formulates the principle this way: "We are to treat those individuals who have inherent value in ways that respect their inherent value" (248).

Although Regan admits that the respect principle does not tell us in any positive way what respect for inherent value involves, he does think that even in this form it rules out certain things. We fail to respect inherent value if we treat individuals with inherent value "as if they were mere receptacles of valuable experiences" (248) and more specifically "whenever we harm them so that we may bring about the best aggregate consequences for everyone affected by the outcome of such treatment" (249). Let us examine these two claims individually.

The first of the claims is vacuous. To understand the claim that we should not treat individuals who have both x and y as mere possessors of x requires that we know what it would be to treat them as individuals with y . If we have no positive account of what is involved in respecting inherent value, we cannot understand what constitutes failing to respect that value. To caricature the prob-

lem, a serial killer might ritualistically chant "you have inherent value" before he slaughters each of his victims, and we have no way of arguing that this is not a sufficient manifestation of "respect" for that value. I suggest that Regan's difficulty here too can be traced to the deliberate neutrality or emptiness of the concept of inherent value if we have no grasp of what that value consists in or is grounded on, we have no basis for an account of respecting that value.

The second part of the gloss on the respect principle does carry some substantive recommendations, but it is simply unjustified. It fails first for the reasons rehearsed earlier in the discussion of the incommensurability thesis: incommensurability does not justify the claim that respect for inherent value can override a potential gain in intrinsic or instrumental value, any more than it justifies the converse. Secondly, the notion of "harm" needs to be examined more closely. In this context, it cannot mean something like "diminish the intrinsic value of the individual's experiences" since presumably that has already been factored into the utilitarian calculation. Thus, it must be linked in some way to the diminution or destruction of inherent value: we should not harm individuals with respect to their inherent value simply in order to bring about the best aggregate consequences. But what does that mean?

Since we don't know what inherent value is, we cannot tell what might harm it. We can infer that since inherent value is all-or-nothing, one cannot diminish the amount of inherent value an individual has. The only alternative sort of harm possible seems to be the total destruction of the individual's inherent value, something which might be accomplished either by destroying the individual or by bringing it about that the individual is no longer a moral agent or patient. On this view, however, the harm principle does not add anything to the claim that certain beings are moral patients, even though they are not moral agents: both assert that we must consider the effect of our actions on these lives as part of our moral deliberations. There is much more to be said on this topic, but the discussion is perhaps adequate for this conclusion: adding the respect principle does not yield any sufficiently

clear-cut consequences for our normative theory.

The concept of harm comes up again in Regan's final attempt to develop the fundamental importance of inherent value. Regan argues that the respect principle, which follows from the PEV, in turn entails "the harm principle," the principle that "we have a direct prima facie duty not to harm individuals [individual moral agents and moral patients]" (187). The argument is basically that the concepts of benefit and harm will only apply to subjects-of-a-life. By hypothesis, all subjects-of-a-life have inherent value and by the respect principle are owed treatment which respects this value. From this, Regan concludes that, "prima facie, therefore, we fail to treat such individuals in ways that respect their value if we treat them in ways that detract from their welfare

--that is, in ways that harm them" (262). Given what has just been shown about the emptiness of the respect principle, it should be clear that nothing of the sort does follow. Harming the individual simply has not been shown to be equivalent to a lack of respect for that individual's inherent value. It is true, given Regan's system, that there is a complete congruence between the set of beings to whom the harm principle applies and the set of beings whose inherent value must be respected, but this is not yet a derivation of the harm principle and cannot be turned into such until we have an independent elaboration of the notion of respecting inherent value.

We have looked at the normative implications of the PEV, both extraordinary (the lifeboat example) and commonplace; we have taken a meta-ethical perspective to see whether the PEV does in fact entail other moral principles. In each case, we were unable to identify a substantive contribution made by the postulate. We are forced to conclude, then, that Regan's concept is, as currently defined, vacuous.

My criticisms of Regan's position thus divide into two points. First, his arguments in support of the PEV do not prove that an acceptable moral theory must postulate equal inherent value. There are too many alternatives which Regan does not successfully rule out. Second, if we assume that our theory should adopt the position that all moral

agents and patients have equal inherent value, that postulate does not support any interesting or radical conclusions; we cannot justify the postulate by claiming that it makes a valuable contribution to our moral theory. I have suggested that these two problems have a common root: the purely formal nature of Regan's concept of inherent value. A concept with more substance would allow a stronger positive argument in support of its introduction and would contribute more to our moral judgments. Thus, we are fully justified in searching for an alternative, more fully developed sense of inherent value. That is the topic of the last section of this paper.

D. An Alternative Account

I have repeatedly suggested that Regan's difficulties have been due in large part to the fact that inherent value was introduced as a stark postulate; it was not grounded in or explicated in terms of anything else.[8] In order to avoid the same problems, then, we must develop a more robust concept of inherent value.

Let me clarify what I think is necessary. We still need an argument which explains why individuals might have inherent value and what that value looks like. It is insufficient merely to assert that the theory should postulate such a value. A more robust concept of inherent value need not entail the denial of the PEV, but the claim that all moral agents and patients have equal inherent value should not merely be stipulated as a desideratum. Rather, we will have to identify what inherent value consists in, what it is in virtue of which something might have inherent value.

As noted in Section A, Regan explicates the notion of inherent value by drawing an analogy with the claim that a receptacle has value over and above the value of its content. That analogy is suggestive, but also limiting. A receptacle is passive; its contents will remain the same even if they are removed from one receptacle and placed in another. Thus, the identity of the receptacle does not affect the contents or their value, and it is therefore not obvious why the receptacle should have value over and above the extrinsic value of its service as a container.

In contrast to a receptacle, I submit that an individual subject does affect and shape its own experiences. Consider the experience of listening to a Mozart sonata. The value of the experience will depend in part on the quality of the music, but it will also depend on how it is heard, what the listener brings to the experience. An informed, sensitive, and attentive audience will gain more from listening to the music than a tone-deaf, bored, and uneducated one. If, as seems reasonable, the sonata has value because it contributes to valuable experiences, by parity of reasoning the subject, the listener, has value for the same reason.[9]



The concept of a subject obviously needs a great deal more elaboration than can be provided here. As a start, let me suggest that the concept of a subject need not involve the introduction of a dualistic concept of self or a mind; it can be something more like the unifying theme, organization and interaction of experiences, beliefs, cognitive and emotional states, and so on. It will also involve the individuality of different "collections" of experience: the personality of an individual, if I may use that speciesist term. The idea on which I am attempting to triangulate is that of an element of unity and continuity, a unique and persistent character which informs an individual's experiences.

At this point, I shall merely suggest without further argument that this concept of being a subject with a personality gives us some intuitive sense of why an individual has inherent value and what that inherent value involves. Again, the link is the degree to which the personality of a subject affects and appreciates experiences which are intrinsically valuable. Respect for that inherent value would then demand proper attention to the capacities and desires of an individual to integrate experiences into an organized and temporally extended unity. Harm with respect to inherent value would involve inducing disruption to or fragmentation of that unity, a kind of alienation, perhaps.

The final, but perhaps most important, feature of this sense of personality is that it admits of degrees; it is not the case that one either simply is a subject with a personality or one is not.[10] Intuitively, neonates of most mammalian species have little or no personality; a normal adult human has a great deal, a dog has some, and a lobster, little or none. This suggests that if we are to give substance to our concept of inherent value, we must also assign differing degrees of value to these individuals.[11]

Notes

1. Tom Regan, The Case for Animal Rights (Berkeley: University of California Press, 1983). Page numbers in parentheses in the text refer to this book.

2. Regan uses the term "moral patient" to refer to beings that are not moral agents but who nonetheless are conscious, sentient, and possess cognitive abilities such as beliefs and memory (153-4). Thus, "moral agent" and "moral patient" denote disjoint sets.

3. Cf. William Frankena, "Value and Valuation," Encyclopedia of Philosophy.

4. The phrase "more intrinsically valuable experiences" is deliberately ambiguous. I prefer, at this stage, to avoid the issue of whether one experience can be more intrinsically valuable than another or whether the only possible differences are due to the fact that one thing might occasion or have more experiences that are intrinsically valuable. The problems which concern us here are not affected by this question.

5. This view is defended by Peter Singer in "Killing Humans and Killing Animals," Inquiry 22 (1979): 145-56.

6. Regan later associates the possession of inherent value with being the "subject-of-a-life" (243-5), but this is meant to supplement, not justify, the claim that beings have inherent value. There are problems with the argument--e.g., the claim that "one either is the subject of a life in the sense explained or one is not. All those who are, are so equally" (245)--but there is not time here to explore this aspect of the theory.

7. For an admirably clear critique of Regan on this point, see Evelyn Pluhar, "Moral Agents and Moral Patients," a paper also delivered at the March, 1987, SSEA meeting and being published in BTS.

8. It is important to keep in mind the relation Regan sees between having inherent value and being the subject-of-a-life. The latter may be a sufficient condition for the former but does not ground or justify it. Thus, one cannot explicate the notion of inherent value by an appeal to what is involved in being a subject-of-a-life.

9. This does not rule out the possibility that there may be other reasons as well. The role of the subject in action, in formulating goals, and in being the object of other subjects' attitudes may also be relevant.

10. In this way, the concept of a subject that I am interested in is not the same as Regan's "subject-of-a-life," which is meant to apply equally to all moral agents and patients.

11. I would like to thank Patricia Kenig Curd and James Whyte Stephens for their valuable comments and suggestions.

